

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3981

To provide mandatory life imprisonment for persons convicted of a third violent felony.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1994

Mr. SCHUMER (by request) (for himself, Mr. HOYER, Mr. MAZZOLI, Mr. GLICKMAN, Mr. SANGMEISTER, Mr. MANN, Mr. MCCOLLUM, Mr. RAMSTAD, Mr. LIVINGSTON, Mr. ROYCE, Mr. MANTON, and Mrs. BYRNE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide mandatory life imprisonment for persons convicted of a third violent felony.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That section 3559 of title 18, United States Code, is  
4       amended—

5               (1) in subsection (b), by striking “An” and in-  
6       serting “Except as provided in subsection (c), an” in  
7       lieu thereof; and

8               (2) by adding the following new subsection at  
9       the end:

1       “(c) IMPRISONMENT OF CERTAIN VIOLENT FEL-  
2       ONS.—

3               “(1) MANDATORY LIFE IMPRISONMENT.—Not-  
4       withstanding any other provision of law, a person  
5       who is convicted in a court of the United States of  
6       a serious violent felony shall be sentenced to life im-  
7       prisonment if—

8               “(A) the person has been convicted on 2 or  
9       more prior occasions in a court of the United  
10       States or of a State of a serious violent felony;  
11       and

12              “(B) each serious violent felony used as a  
13       basis for sentencing under this subsection,  
14       other than the first, was committed after the  
15       defendant’s conviction of the preceding serious  
16       violent felony.

17              “(2) DEFINITIONS.—For purposes of this sub-  
18       section—

19              “(A) the term ‘assault with intent to com-  
20       mit rape’ means an offense that has as its ele-  
21       ments engaging in physical conduct by which a  
22       person intentionally places another person in  
23       fear of aggravated sexual abuse or sexual abuse  
24       (as described in sections 2241 and 2242);

1           “(B) the term ‘arson’ means an offense  
2           that has as its elements maliciously damaging  
3           or destroying any building, inhabited structure,  
4           vehicle, vessel, or real property by means of fire  
5           or an explosive;

6           “(C) the term ‘extortion’ means an offense  
7           that has as its elements the extraction of any-  
8           thing of value from another person by threaten-  
9           ing or placing that person in fear of injury to  
10          any person or kidnapping of any person;

11          “(D) the term ‘firearms use’ means an of-  
12          fense that has as its elements those described  
13          in section 924(c) or 929(a), if the firearm was  
14          brandished, discharged, or otherwise used as a  
15          weapon and the crime of violence or drug traf-  
16          ficking crime during and relation to which the  
17          firearm was used was subject to prosecution in  
18          a court of the United States or a court of a  
19          State, or both;

20          “(E) the term ‘kidnapping’ means an of-  
21          fense that has as its elements the abduction, re-  
22          straining, confining, or carrying away of an-  
23          other person by force or threat of force;

24          “(F) the term ‘serious violent felony’  
25          means—

1           “(i) a Federal or State offense, by  
2           whatever designation and wherever com-  
3           mitted, consisting of murder (as described  
4           in section 1111); manslaughter other than  
5           involuntary manslaughter (as described in  
6           section 1112); assault with intent to com-  
7           mit murder (as described in section  
8           113(a)); assault with intent to commit  
9           rape; aggravated sexual abuse and sexual  
10          abuse (as described in sections 2241 and  
11          2242); abusive sexual contact (as described  
12          in sections 2244(a)(1) and (a)(2)); kidnap-  
13          ping; aircraft piracy (as described in sec-  
14          tion 1472(i)(2) or (n)(2) of title 49); rob-  
15          bery (as described in section 2111); extor-  
16          tion; arson; firearms use; or attempt, con-  
17          spiracy, or solicitation to commit any of  
18          the above offenses; or

19          “(ii) any other offense punishable by  
20          a maximum term of imprisonment of 10  
21          years or more that has as an element the  
22          use, attempted use, or threatened use of  
23          physical force against the person of an-  
24          other or that, by its nature, involves a sub-  
25          stantial risk that physical force against the

1 person of another may be used in the  
2 course of committing the offense; and

3 “(G) the term ‘State’ means a State of the  
4 United States, the District of Columbia, or any  
5 commonwealth, territory, or possession of the  
6 United States.

7 “(3) NONQUALIFYING FELONIES.—

8 “(A) ROBBERY IN CERTAIN CASES.—Rob-  
9 bery, an attempt, conspiracy, or solicitation to  
10 commit robbery; or an offense described in  
11 paragraph (2)(F)(ii) shall not serve as a basis  
12 for sentencing under this subsection if the de-  
13 fendant establishes by clear and convincing evi-  
14 dence that—

15 “(i) no firearm or other dangerous  
16 weapon was involved in the offense; and

17 “(ii) the offense did not result in  
18 death or serious bodily injury (as defined  
19 in section 1365) to any person.

20 “(B) ARSON IN CERTAIN CASES.—Arson  
21 shall not serve as a basis for sentencing under  
22 this subsection if the defendant establishes by  
23 clear and convincing evidence that—

24 “(i) the offense posed no threat to  
25 human life; and

1                   “(ii) the defendant reasonably believed  
2                   the offense posed no threat to human life.

3                   “(4) INFORMATION FILED BY UNITED STATES  
4                   ATTORNEY.—The provisions of section 411(a) of the  
5                   Controlled Substances Act (21 U.S.C. 851(a)) shall  
6                   apply to the imposition of sentence under this sub-  
7                   section.

8                   “(5) RULE OF CONSTRUCTION.—This sub-  
9                   section shall not be construed to preclude imposition  
10                  of the death penalty.”.

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